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April 3, 1956  
Opinion No. 56-69

REQUESTED BY: Honorable James Carroll  
House of Representatives

OPINION BY: Robert Morrison, The Attorney General  
R. G. Langmade, Special Assistant  
Attorney General

QUESTION: Re: Constitutionality of "Little Hatch" Act of  
Arizona as applied, i. e. Motor Vehicle Division  
of State Highway Department where there are no  
federal matching funds received.

CONCLUSION: The "Little Hatch" Act of Arizona applies to the  
Motor Vehicle Division, as well as to other  
divisions of the Highway Department and is con-  
stitutional.

In amending the State Highway Code in 1939, the Legislature provided  
for the removal of employees of the Highway Department who engaged in  
political activity. The statute, A.R.S. §18-115, reads as follows:

"18-115. Prohibiting of political activity.  
No commissioner, state engineer, secretary or  
any employee of the highway department, shall  
serve on any committees of a political party, or  
engage in political activities other than voting. A  
violation of this section shall be cause for dis-  
missal or removal from the department."

The Legislature has the right to prescribe the qualifications and  
regulate the conduct of its employees. The only limitation upon this right  
is found in Section 6, Article 2, of the State Constitution, which provides:

"Every person may freely speak, write, and  
publish on all subjects, being responsible for  
the abuse of that right."

Section 18-115 does not appear to be in conflict with this constitu-  
tional provision. It prohibits an employee from serving on a committee  
of a political party and engaging in political activities other than voting.  
There is no limitation upon his right to freely speak, write, or publish on  
all subjects.

Hon. James Carroll  
House of Representatives

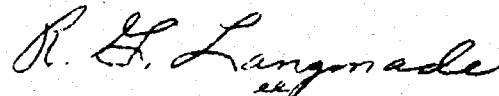
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The United States Supreme Court, in the case of United Public Workers vs. Mitchell, 67 S. Ct. Rep. 556, held that Congress had the right to prohibit political activities notwithstanding the First Amendment which guaranteed free speech. The employee in that case:

" \* \* \* was a ward executive committeeman of a political party and was politically active on election day as a worker at the polls and a paymaster for the services of other party workers. \* \* \*"

It is our opinion, therefore, that A. R. S. §18-115 is constitutional.

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